

TO: Clerk's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL

 UNITED STATES

-v.-

SAM RESTO

20-M-665

Docket Number

SUBMITTED BY: Plaintiff ___ Defendant ___ DOJ ☒
 Name: AUSA Michael T. Keilty
 Firm Name: USAO-EDNY
 Address: 271 Cadman Plaza E.
 Brooklyn, NY 11201
 Phone Number: 718-254-7528
 E-Mail Address: michael.keilty@usdoj.gov

INDICATE UPON THE PUBLIC DOCKET SHEET: YES ___ NO ☒

If yes, state description of document to be entered on docket sheet:

MANDATORY CERTIFICATION OF SERVICE:

A.) ___ A copy of this application either has been or will be promptly served upon all parties to this action, B.) ___ Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: _____; or C.) ☒ This is a criminal document submitted, and flight public safety, or security are significant concerns. (Check one)

08/13/20
 DATE

Michael T. Keilty
 SIGNATURE

A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____

Judge/Magistrate Judge: _____

Date Entered: _____

B) If a new application, the statute, regulation, or other legal basis that authorizes filing under seal

United States v. Amodeo, 44 F.3d 141, 147 (2d Cir. 1995)

**ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
 AND MAY NOT BE UNSEALED UNLESS ORDERED BY
 THE COURT.**

DATED: Brooklyn, NEW YORK

August 13, 2020

U.S. MAGISTRATE JUDGE

RECEIVED IN CLERK'S OFFICE _____
 DATE

DMP:FJN/MTK/SKW
F.#2020R00610

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

- against -

SAM RESTO,

Defendant.

----- X

COMPLAINT AND
AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
ARREST WARRANT

(18 U.S.C. § 844(i))

No. 20-M-665

EASTERN DISTRICT OF NEW YORK, SS:

SARAH B. BERNAL, being duly sworn, deposes and states that she is a
Special Agent with the Federal Bureau of Investigation, duly appointed according to law and
acting as such.

Causing Damage by Fire – Police Vehicle

On or about July 29, 2020, within the Eastern District of New York and
elsewhere, the defendant SAM RESTO did knowingly, intentionally and maliciously
damage, and attempt to damage and destroy, by means of fire, a vehicle and other real
property used in interstate and foreign commerce and in an activity affecting interstate and
foreign commerce, to wit: a New York City Police Department vehicle in New York, New
York.

(Title 18, United States Code, Section 844(i))

The source of your deponent's information and the grounds for her belief are as follows:¹

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") assigned to the Joint Terrorism Task Force ("JTTF"). I have been a Special Agent for approximately three years. As a Special Agent, I have investigated numerous matters during the course of which I have conducted physical and electronic surveillance, interviewed witnesses, executed court-authorized search warrants and used other investigative techniques to secure relevant information regarding a variety of crimes. I am familiar with the facts and circumstances set forth below from my personal review of records, documents and other physical evidence obtained during this investigation, and from communications and information provided to me by fellow agents and other government personnel with knowledge related to this investigation.

2. On or about July 28, 2020, at approximately 10:40 p.m., the defendant SAM RESTO purchased gasoline from a gas station located in Elmhurst, New York. RESTO was wearing a dark Adidas hat, a dark long-sleeve top, dark jeans, dark Nike sneakers and dark gloves with blue trim with the fingers cut off. At the gas station, RESTO used a self-service pump and placed gasoline into a red jerry can that RESTO was carrying. An image of RESTO at the gas station in Elmhurst, New York is shown below.

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

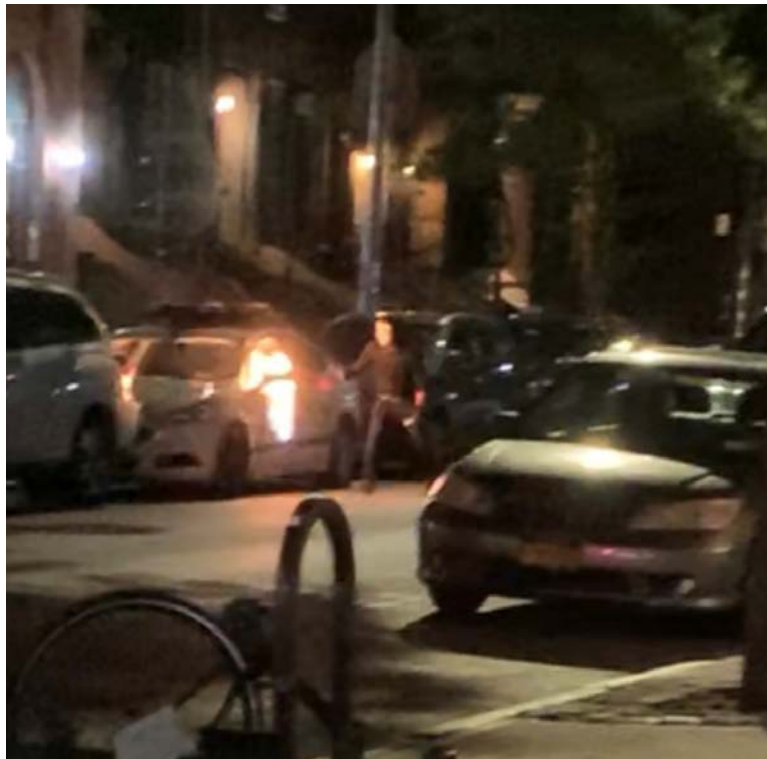


3. New York City Police Department (“NYPD”) officers conducting surveillance watched as RESTO took the red jerry can to his home in Elmhurst, New York. At approximately 11:47 p.m. that same evening, NYPD officers observed RESTO leave his home in Elmhurst, New York, wearing what appeared to be the same clothing he wore to the gas station. RESTO was also carrying a backpack. NYPD officers observed RESTO get into a ride share vehicle and travel from Elmhurst to Manhattan.

4. On or about July 29, 2020, at approximately 3:50 a.m., an individual later identified as the defendant SAM RESTO approached a marked NYPD Ford Fusion motor vehicle (the “NYPD Vehicle”) parked in the vicinity of 73 West 83rd Street, near the

intersection of Columbus Avenue and West 83rd Street. The NYPD Vehicle was marked “NYPD” and “POLICE” in multiple areas, and bore visible police lights. RESTO was wearing dark clothing and dark gloves similar to what RESTO had worn at the Elmhurst, New York gas station approximately five hours earlier. RESTO was also wearing a white mask that covered his face.

5. RESTO broke the front passenger-side window of the NYPD Vehicle with a blunt instrument and poured gasoline into the interior. RESTO then lit the NYPD Vehicle on fire and fled east on West 83rd Street toward Central Park. NYPD officers obtained video footage of RESTO igniting the NYPD Vehicle. Images of RESTO igniting the NYPD Vehicle are shown below.





6. NYPD officers subsequently found an abandoned backpack in Central Park, near the intersection of Central Park West and West 83rd Street. The backpack was similar in appearance to the one that NYPD officers had observed the defendant SAM RESTO wearing approximately four hours earlier when he had left his home in Elmhurst to travel to Manhattan. A search of the backpack revealed a dark Adidas hat, a dark long-sleeve top, dark jeans, dark Nike sneakers and dark gloves with blue trim with the fingers cut off, all of which were similar to the clothes that RESTO was wearing when he purchased gasoline in Elmhurst, New York earlier that evening. The backpack also contained a white Guy Fawkes mask, a red two-gallon jerry can similar to the can that RESTO was carrying at the gas station in Elmhurst, a hammer, lighters and other items. The jerry can contained a liquid that smelled like gasoline. An image of some of the items recovered from the backpack is shown below.




7. Law enforcement personnel examined the contents of the backpack for latent fingerprints. A law enforcement analysis determined that two latent fingerprints recovered from the spout of the red jerry can were a match to the defendant SAM RESTO's right middle and right index fingerprints.

8. Law enforcement personnel also obtained cellular tower data for a telephone associated with RESTO. Preliminary analysis of the cellular tower data showed that RESTO's telephone was in close proximity to the location of the parked NYPD Vehicle located at 73 West 83rd Street at 3:50 a.m. on July 29, 2020, the approximate time the NYPD Vehicle was set on fire. Preliminary analysis of cellular tower data also showed that, approximately five minutes later, RESTO's telephone was in close proximity to the location in Central Park where the backpack was recovered.

9. The NYPD Vehicle is the property of the NYPD and the New York City government. Both the NYPD and New York City government conduct business in interstate commerce, for instance by purchasing vehicles and other equipment and supplies in

interstate commerce. The activities of the NYPD and the New York City government in enacting and enforcing laws also affect interstate commerce. The NYPD and the New York City government are also the recipients of financial assistance from the federal government, including grants from the U.S. Department of Homeland Security.

WHEREFORE, your deponent respectfully requests that the defendant SAM RESTO be dealt with according to law.


SARAH B. BERNAL
Special Agent, Federal Bureau of Investigation

Sworn to before me through the transmission of this
Affidavit by reliable telephonic and electronic means
Pursuant to Federal Rule of Criminal Procedure 4.1,
this 13th day of August, 2020


THE HONORABLE PEGGY KUO
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

v.

SAM RESTO

Case No. 20-M-665

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

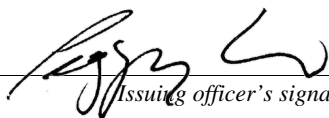
YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) SAM RESTO,

who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment
 ☐ Superseding Indictment
 ☐ Information
 ☐ Superseding Information
☒ Complaint
☐ Probation Violation Petition
☐ Supervised Release Violation Petition
☐ Violation Notice
☐ Order of the Court

This offense is briefly described as follows:

Causing Damage by Fire - Police Vehicle, in violation of Title 18, United States Code, Section 844(i)

Date: 08/13/2020

*Issuing officer's signature*City and state: Brooklyn, New YorkPeggy Kuo, U.S. Magistrate Judge*Printed name and title*

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
 at (city and state) _____.

Date: _____

*Arresting officer's signature**Printed name and title*

**This second page contains personal identifiers provided for law-enforcement use only
and therefore should not be filed in court with the executed warrant unless under seal.**

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____

Print

Save As...

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